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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,157	11/12/2003	Lee Martinson	TIOG-004	8254

7590 02/10/2006

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EXAMINER	
CHARLES, MARCUS	

ART UNIT	PAPER NUMBER
3682	

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/712,157	MARTINSON ET AL.	
	Examiner	Art Unit	
	Marcus Charles	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 December 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the amendment filed 12-06-2005, which has been entered.

Claims 1-20 are currently pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-5, 7, 9-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP (0086522) in view Gregory (897092). EP (0086522) discloses a belt stabilizer system, comprising base (12); an upper support/stand (2/3) in combination; a roller (1) rotatable positioned within the upper support; a spring positioned within against the upper member; a securing shaft (9) attached to the base (12) and slidably extended through the support stand (2/3), a threaded nut (10) threadably attached to the threaded portion of the shaft. EP (0086522) fails to disclose the lower member attached substantially transversely to an upper surface of the base and an upper member slidably positioned upon the lower member. Gregory discloses a belt guide having a lower member (12) attached to a base (6) and an upper member attached an upper support stand (3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of EP (0086522) to include a lower member attached transversely to the base and in slidable within the

upper member in view of Gregory in order to protect the spring, prevent in advertent side movement or bending of the shaft and to maintain constant axial movement.

In claims 2, EP (0086522) discloses the claimed invention.

In claim 3, note the upper and lower members comprise tubular structures.

In claims 4, 5 and 12, note the spring of EP (0086522) and Gregory discloses the compression spring and engages the upper and lower members that includes the base.

In claim 7 and 15, it is apparent that the roller is supported on an elongated fastener.

In claims 9-13 and 15, EP (0086522) disclose the claimed invention.

3. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP (0086522) in view of Gregory. Both EP (0086522) and Gregory fail to disclose the material from which the roller is made from. It is well known in the art for roller to be made from nylon to reduce weight and frictional wear. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the roller of EP (0086522) so that it is made from nylon in order to reduce weight and frictional wear and it is within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. See In re leshin, USPQ 416.

4. Claims 8, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP (0086522) in view of Gregory as applied to claim 1 above and further in view of in view of Nealy (1,047,830). EP (0086522) and Gregory disclose the claimed invention above but failed to disclose the relationship of the length of the fastener to the diameter wheel

such that the fastener has a length at least two times greater than a diameter of the. Nealy discloses a belt a belt guide (fig. 2) comprising a wheel (6) and a fastener (7) passing through the wheel so that the wheel such that the length of the fastener is more that twice the diameter of the wheel in order to the wheel to tension belt with various width and in particular larger belts. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the system of EP (0086522). so that the length of the fastener is at least twice greater than the diameter of the wheel in view of Nealy in order to in order to the wheel to tension belt with various width and in particular larger belts.

5. Claim 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rointru et al. (6,422,964 in view EP (0086522) and Nealy. Rointru et al. discloses a belt tensioner (see fig. 16a, 16b) comprising a base (3) which is also a lower member; an upper member (19) positioned over the lower member, the upper support member is also a support stand and a roller (21) for engaging a belt is rotatably position within the support member (it is apparent from the drawing symbol that the cross-section of the wheel indicated the wheel is made from a nylon material); a compression spring (positioned on and applying a separate force between the lower member and upper member; a securing shaft (13) attached to the base but does slidably extend through the support stand. Rointru et al. also discloses the elongated fastener (not labeled) and that it would be possible to include a threaded shaft with nut to prestress the tensioner. Is silent concerning any specific details about the shaft and how it is used. EP (0086522 discloses a tensioner comprising a threaded shaft (9) attached to a base and

slidably extending through a support member (3) and a threaded nut (10) threadably attached to the threaded portion of the shaft in order to adjust the tensioner system inherently the tensioner. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Rointru et al. to include the shaft of EP (0086522) as proposed by Rointru et al in order to adjust the tensioner system inherently prestressing the tensioner. In addition, Rointrue fails to disclose the relationship of the length of the fastener to the diameter wheel such that the fastener has a length at least two times greater than a diameter of the. Nealy discloses a belt a belt guide (fig. 2) comprising a wheel (6) and a fastener (7) passing through the wheel so that the wheel such that the length of the fastener is more that twice the diameter of the wheel in order to the wheel to tension belt with various width and in particular larger belts. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the system of Rointrue et al. so that the length of the fastener is at least twice greater than the diameter of the wheel in view of Nealy in order to in order to the wheel to tension belt with various width and in particular larger belts.

In claims 18-20, the method claim is inherently included during the manufacturing of Rointru et al. and EP (0086522) device above.

Response to Arguments

6. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments filed 12-06-2005 regarding claims 17-20 have been fully considered but they are not persuasive. Applicant contended that Rointru et al. is

analogous are because the Rointru et al. reference applies to the automotive industry while the claimed invention applies to the oil industry. It should be noted that there is no specific details in the claims to the claimed invention that applies to the oil industry. The invention broadly applies to a drive belt, which can apply to any industry where tensioners or stabilizers are being used. In addition, applicant contended that the prior art is analogous and does not solve the same problems as the claimed invention. It should be noted that both systems are being used to stabilize the belt on the slack side and thus the art is relevant to the same problem. In addition to applicant's argument that Rointru et al. is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, as stated above, the prior art and claimed invention are relevant to the same problem.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Marcus Charles
Primary Examiner
Art Unit 3682
February 04, 2006